

**567—65.7(455B) Construction permits.****65.7(1) *Animal feeding operations required to obtain a construction permit.***

a. An animal feeding operation covered by the operation permit provisions of subrules 65.4(1) to 65.4(3) shall obtain a construction permit prior to constructing, installing, or modifying a manure control system for that operation or reopening the operation if it was discontinued for 24 months or more.

b. Except as provided in subrule 65.7(2), a confinement feeding operation shall obtain a construction permit prior to any of the following:

(1) Constructing or modifying any unformed manure storage structure, or constructing or modifying a confinement building that uses an unformed manure storage structure.

(2) Constructing, installing or modifying a confinement building or a formed manure storage structure at a confinement feeding operation if, after construction, installation or expansion, the animal unit capacity of the operation is 1,000 animal units or more. This subparagraph also applies to confinement feeding operations that store manure exclusively in a dry form.

(3) Initiating a change that would result in an increase in the volume of manure or a modification in the manner in which manure is stored in any unformed manure storage structure, even if no construction or physical alteration is necessary. Increases in the volume of manure due to an increase in animal capacity, animal weight capacity or animal unit capacity up to the limits specified in a previously issued construction permit do not require a new construction permit.

(4) Initiating a change, even if no construction or physical alteration is necessary, that would result in an increase in the volume of manure or a modification in the manner in which manure is stored in a formed manure storage structure if, after the change, the animal unit capacity of the operation is 1,000 animal units or more. Increases in the volume of manure due to an increase in animal capacity, animal weight capacity or animal unit capacity up to the limits specified in a previously issued construction permit do not require a new construction permit.

(5) Constructing or modifying any egg washwater storage structure or a confinement building at a confinement feeding operation that includes an egg washwater storage structure.

(6) Initiating a change that would result in an increase in the volume of egg washwater or a modification in the manner in which egg washwater is stored, even if no construction or physical alteration is necessary. Increases in the volume of egg washwater due to an increase in animal capacity, animal weight capacity or animal unit capacity up to the limits specified in a previously issued construction permit do not require a new construction permit.

(7) Repopulating a confinement feeding operation if it was closed for 24 months or more and if any of the following apply:

1. The confinement feeding operation uses an unformed manure storage structure or egg washwater storage structure;

2. The confinement feeding operation includes only confinement buildings and formed manure storage structures and has an animal unit capacity of 1,000 animal units or more.

(8) Installing a permanent manure transfer piping system, unless the department determines that a construction permit is not required.

Repairs to a confinement building or additions such as fans, slats, gates, roofs, or covers do not require a construction permit. In some instances, the department may determine that a construction permit is not required to increase the volume of manure or egg washwater or a modification in the manner in which manure or egg washwater is stored if the increase or modification is deemed insignificant. Plans for repairs or modifications to a manure storage structure shall be submitted to the department to determine if a permit is required.

**65.7(2) *Animal feeding operations not required to obtain a construction permit.***

a. A construction permit shall not be required for an animal feeding operation structure used in conjunction with a small animal feeding operation.

b. A construction permit shall not be required for an animal feeding operation structure related to research activities and experiments performed under the authority and regulations of a research college.

**65.7(3) Operations that shall not be issued construction permits.**

*a.* The department shall not issue a construction permit to a person if an enforcement action by the department, relating to a violation of this chapter concerning a confinement feeding operation in which the person has an interest, is pending.

*b.* The department shall not issue a construction permit to a person for five years after the date of the last violation committed by a person or confinement feeding operation in which the person holds a controlling interest during which the person or operation was classified as a habitual violator under Iowa Code section 455B.191.

*c.* The department shall not issue a construction permit to expand or modify a confinement feeding operation for one year after completion of the last construction or modification at the operation, if a permit was not required for the last construction or modification. The department, upon good cause demonstrated by the applicant, shall grant a waiver to this rule.

*d.* The department shall not issue a construction permit for a confinement feeding operation structure that is proposed to be located on the one hundred year flood plain. Placing fill material on flood plain land to elevate the land above the one hundred year flood level will not be considered as removing the land from the one hundred year flood plain for the purpose of this subrule.

**65.7(4) Plan review criteria.** Review of plans and specifications shall be conducted to determine the potential of the proposed manure control system to achieve the level of manure control being required of the animal feeding operation. In conducting this review, applicable criteria contained in federal law, state law, these rules, natural resource conservation service design standards and specifications unless inconsistent with federal or state law or these rules, and department of commerce precipitation data shall be used. If the proposed facility plans are not adequately covered by these criteria, applicable criteria contained in current technical literature shall be used.

**65.7(5) Expiration of construction permits.** A construction permit issued prior to June 15, 2005, shall expire if construction, as defined in rule 65.8(455B), is not begun within one year of the date of issuance and shall expire on June 15, 2012, if construction is not completed by June 14, 2012. A construction permit issued on or after June 15, 2005, shall expire if construction, as defined in rule 65.8(455B), is not begun within one year and completed within four years of the date of issuance. The director may grant an extension of time to begin or complete construction if it is necessary or justified, upon showing of such necessity or justification to the director, unless a person who has an interest in the proposed operation is the subject of a pending enforcement action or a person who has a controlling interest in the proposed operation has been classified as a habitual violator.

**65.7(6) Revocation of construction permits.** The department may revoke a construction permit or refuse to renew a permit expiring according to subrule 65.7(5) if it determines that the operation of the confinement feeding operation constitutes a clear, present and impending danger to public health or the environment.

**65.7(7) Permit prior to construction.** An applicant for a construction permit shall not begin construction at the location of a site planned for the construction of an animal feeding operation structure, including an aerobic structure, until the person has been granted a permit for the construction of the structure by the department.